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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,759	10/07/2003	Marc Bergendahl	P03060	5235
23702	7590	01/11/2006	EXAMINER	
Bausch & Lomb Incorporated One Bausch & Lomb Place Rochester, NY 14604-2701			NGUYEN, TU T	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/680,759

Applicant(s)

BERGENDAHL ET AL.

Examiner

Tu T. Nguyen

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/30/05, 01/09/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baske et al (WO 03/016855) in view of Fitzpatrick (5,786,898).

With respect to claim 1, Baske discloses an inspection cell (fig 3) for optical devices 30 (fig 3). The inspection cell comprises: a block of optically transparent material 42 (fig 3) having a bowl formed 34 (fig 3) therein; a spillway 36 (fig 3) integrated with the bowl.

Baske discloses tipping (or swiveling) the block for inserting a test optical device (page 3, lines 3-12). However, Baske does not disclose a retainer for holding the block via a pivot point that allows the block to tip. Fitzpatrick discloses a testing device. The device comprises: a retainer for holding a block 38 (fig 5) via a pivot point 40 (fig 5) that allows the block 38 (fig 5) to tip or to swivel. It would have been obvious to modify Baske with the retainer taught by Fitzpatrick to tip or to swivel the block easier.

With respect to claims 2,11, Baske discloses a lens cup 34 (fig 3) disposed at the end of the spillway 36 (fig 3) for holding a lens 30 (fig 3).

With respect to claim 3, it would have been obvious to modify Baske with a slot as claimed to test the edge of the lens easier.

With respect to claim 4, Baske discloses using a glass block (abstract).

With respect to claims 5-7, Baske discloses an interior aspheric shape 34 (fig 3) at the bottom of the block. However, Baske does not disclose the claimed exterior aspheric shape. It would have been obvious a design choice to modify Baske having an exterior aspheric shape as claimed for different testing purposes.

With respect to claim 8, Baske discloses a lens 30 (fig 3) incorporated into the bowl 34 (fig 3).

With respect to claim 9, it would have been obvious to modify the block taught by Baske with different material such as the claimed optical acrylic for different intended uses.

With respect to claim 10, refer to discussion in claim 1 above for the block, bowl and the retainer. Further, Baske disclose placing 38 (fig 4) a lens into the bowl, filling the bowl with fluid (abstract). Baske does not disclose tipping the bowl to empty the fluid and the lens. Since Baske discloses swiveling the block (page 3, lines 3-12), it would have been obvious that the block could be emptied by tipping the block.

With respect to claims 12-14, it would have been obvious a design choice to modify Baske with the claimed tipping rates for different testing purposes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T. Nguyen whose telephone number is (571) 272-2424. The examiner can normally be reached on T-F 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley Jr. can be reached on (571) 272-2800 Ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tu T. Nguyen  
Primary Examiner  
Art Unit 2877